IN THE HIGH OF UTTARANCHAL AT NAINIAL

WRIT PETITION NO. 372 (M/S) OF 2006

Sarvan Singh S/o Sri Swaroop singh
R/o Basai, Tehsil Kashipur,
District Udham Singh Nagar. .....Petitioner

Versus

1. Sri Harpal Singh S/o Sri Harbansh Singh
   R/o Basai, Tehsil Kashipur,
   District Udham Singh Nagar.
2. Civil Jude (J.D.), Kashipur
   District : Udham Singh Nagar.
3. Addl. District Judge/F.T.C., Kashipur
   District: Udham Singh Nagar. .....Respondents

13.04.2006

Sri Dham Veer, Learned Senior counsel & Omprakash Arora, counsel for the petitioner.
Learned Standing Counsel for the respondents.

Hon'ble Rajesh Tandon, J.

Heard Sri Dhram Veer, Senior Advocate appearing on behalf of the petitioner, Standing Counsel on behalf of the respondent No. 2 & 3.

By the present writ petition, the petitioner has prayed for setting aside/quashing the order dated 01.04.2006 passed by respondent no. 3 Additional District Judge/FTC, Kashipur and also to quash the order dated 03.02.2006 passed by respondent no.2 Civil Judge (J.D.), Kashipur in Civil Case No. 135 of 2005.

Briefly stated according to the case of the petitioner, he is the owner and tenant of class I-Kh (Land heldunder Government Grant Act) of Khata no.535 plot no. 465 min. area 1.387 hectare situated in Mauja Basai, The. Kashipur District Udham Singh Nagar.

Learned counsel for the petitioner has submitted that respondent no.1 has tried to cut the crop of the petitioner forcibly & unlawfully, therefore, the petitioner has filed Civil Suit i.e. No. 135 of 2005 for a permanent injunction against respondent no. 1 on 01.10.2005 and he has also filed application for Temporary Injection in the above Civil Suit with a prayer to

restrain the respondent no. 1 not to interfere in the peaceful possession of the petitioner. The respondent has filed the objections against the grant of temporary injunction. However, Civil Judge (J.D.) has passed an order on 03.02.2006 rejecting the application for temporary injunction.

Aggrieved by the above order, petitioner has preferred an appeal before the District Judge, Udham Singh Nagar. The District Judge on 13.2.2006 has passed the order restraining the respondent no. 1 not to interfere in the land in dispute. The respondent No. 3 has dismissed the appeal of the petitioner vide order dated 01.04.2006.

The grievance of the petitioner is that he is the owner of the land of the Khata No. 535 plot no. 456 and respondent no.1 has no concern with the land and on the interference of the respondent no.1, he has filed the present suit, which is pending.

In view of the above, Civil Judge(J.D.) is directed to dispose of suit No. 135/2005 within a period of three months from the production of the certified copy of this order. During the pendency of suit, parties are directed to maintain status quo.

Subject the aforesaid observation, writ petition is disposed of.

(Rajesh Tandon, J.)

13.04.2006
Jain